

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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LIBERTY MUTUAL INSURANCE GROUP,
 Plaintiff,
 v.
 PANELIZED STRUCTURES, INC., ET AL.,
 Defendants.

Case No. 2:10-cv-01951-MMD-PAL

ORDER

(Def's Motion to Review and Set Aside
 Order of Dismissal Based on Newly
 Revealed Evidence of LM Insurance
 Corporation's Issuance of Insurance Policy,
 Delayed Admission of Liberty Mutual's
 False Claim and Manifest Injustice of
 Dismissal- dkt. no. 143;
 PSI's Motion for Partial Summary
 Judgment Against LM Insurance
 Corporation based on Bar of Statute of
 Limitations - dkt. no. 152)

PANELIZED STRUCTURES, INC.,
 Counterclaimant,
 v.
 LIBERTY MUTUAL INSURANCE GROUP,
 LM INSURANCE CORPORATION, and
 LIBERTY MUTUAL INSURANCE
 GROUP/BOSTON,
 Counterdefendants.

PANELIZED STRUCTURES, INC.,
 Third-Party Plaintiff,
 v.
 ARIZONA LABOR FORCE, INC., an
 Arizona corporation, dba ALLIED FORCES
 TEMPORARY SERVICES,
 Third-Party Defendant.

CONSOLIDATED WITH:

Case No. 2:12-cv-00264-MMD-PAL

Before the Court are Defendant Panelized Structures, Inc.'s ("Defendant") Motion
 to Review and Set Aside Order of Dismissal Based on Newly Revealed Evidence of LM
 Insurance Corporation's Issuance of Insurance Policy, Delayed Admission of Liberty

1 Mutual's False Claim and Manifest Injustice of Dismissal ("Motion to Set Aside") (dkt. no.
2 143), and Defendant's Motion for Partial Summary Judgment Against LM Insurance
3 Corporation based on Bar of Statute of Limitations ("Motion for Partial Summary
4 Judgment") (dkt. no. 152). Both of these Motions are part of a group of motions that
5 Defendant filed in response to Plaintiff Liberty Mutual Insurance Group's ("Liberty
6 Mutual") Motion to Substitute LM Insurance Corporation as the Real Party in Interest.
7 Because the Court's Order granting Liberty Mutual's motion resolves the arguments
8 presented in these Motions, both Motions are denied.

9 The facts of this case are set forth in the Court's other Orders. Pertinent to these
10 Motions is only that the Court's Order entered February 26, 2008 (dkt. no. 185), granted
11 the Motion to Substitute LMIC as the real party in interest for plaintiff Liberty Mutual.

12 Defendant's Motions presently before the Court do little more than repeat the
13 arguments made in Defendant's Response in Opposition to the Liberty Mutual's Motion
14 to Substitute. Both Motions are premised on the arguments that because Liberty Mutual
15 was not a real party in interest, any actions taken by it were of no effect. However, this
16 is not the law. Upon substitution, an "action proceeds as if it had been originally
17 commenced by the real party in interest." Fed. R. Civ. P. 17(a)(3). Thus, after
18 substitution, all actions taken by Liberty Mutual in the prosecution of the action are
19 considered to have been taken by LMIC. Thus, none of the analysis changes in the
20 Court's prior Order which Defendant seeks to set aside, and LMIC's prosecution of the
21 action relates back to the date of Liberty Mutual's original filing.

22 IT IS THEREFORE ORDERED that Defendant's Motion to Review and Set Aside
23 Order of Dismissal Based on Newly Revealed Evidence of LM Insurance Corporation's
24 Issuance of Insurance Policy, Delayed Admission of Liberty Mutual's False Claim and
25 Manifest Injustice of Dismissal (dkt. no. 143) is DENIED.


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1 IT IS FURTHER ORDERED that Defendant's Motion for Partial Summary
2 Judgment Against LM Insurance Corporation based on Bar of Statute of Limitations (dkt.
3 no. 152) is DENIED.

4 DATED THIS 12th day of March 2013.

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7 MIRANDA M. DU
8 UNITED STATES DISTRICT JUDGE
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